THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 23161 OF 2005

Dated: 08-11-2005

Between:

S.S.R.Crest Engineers and Constructions Ltd.,

39-40 & 41-B, 2nd Floor, Sony Business

Complex, Prasanthnagar, Industrial Estate,

Kukatpally, Ranga Reddy District, rep. by its

Managing Director Ch. Syam Sunder Reddy

…Petitioner

A N D

1. State of Andhra Pradesh, rep. by its

Secretary, Public Health & Municipal Engineering

Department, Secretariat, Hyderabad and others

…Respondents

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O R D E R :

1. When W.V.M.P.No. 3010 of 2005 came up for hearing, with the consent of both parties the writ petition itself is taken up for hearing and the same is being disposed of by this order.

2. This writ petition has been filed by the S.S.R. Crest Engineers and Constructions Ltd., rep. by its Managing Director Ch.Syam Sunder Reddy with a prayer to issue an appropriate writ, order or direction, preferably one in the nature of Writ of Mandamus, declaring the action of the respondents 2 and 3 in not awarding the contract to him in respect of works mentioned in Package No.3 (i) (a), (b), (c), (d) and (ii) (a), (b) and (c) pursuant to the Tender Notification No. E/APURMSP/333/2005, dated 29-7-2005 as arbitrary and illegal.

3. 3rd respondent issued a tender notification No. E/APURMSP/333/2005, dated 29-7-2005 inviting the tenders of intending bidders for various works mentioned in the annexure thereto. The petitioner submitted tender schedule in respect of the works mentioned in package No. 3(i)(a),(b),(c),(d) and (ii) (a),(b) and (c). The petitioner tender was opened on 31-8-2005 at 3-30 p.m. and as there was no other tender, and therefore his tender was to be accepted. When the 3rd respondent refused to award works to the petitioner in spite of his tender being the lowest, he has chosen to approach this Court invoking jurisdiction under Article 226 of the Constitution of India with a prayer stated supra.

4. The Commisioner, Municipal Council, Vikarabad-3rd respondent filed counter affidavit. It is stated in the counter affidavit that the Council has taken into account all the circumstances and resolved to cancel the tender and to call for fresh tenders. I deem it appropriate to refer paras 5 and 6 of the counter affidavit and it is thus:

> "*It is respectfully submitted that in reply to para (4) of the affidavit, I submit that I have no knowledge about the filing of Caveat Petition by the 4th respondent and the petitioner herein is put to strict proof of the same. I submit that the4th respondent herein filed his Tender Schedule before the Police Station, Vikarabad, at about 3-30 p.m. as he was prevented to file his Tender before the schedule time in Municipal Office. The said tender notice was forwarded to me by the Station House Officer, Vikarabad Police Station at about 4-15 p.m. After getting instructions from the higher authorities, I opened the said tender also and I found that the 4th respondent is the lowest tenderer for the works mentioned in Package-III. The same was recorded in the Minutes of the Tenders. It is pertinent to mention that the competent authority is the 2nd respondent herein to finalize the Tenders. The 2nd respondent herein by his proceedings dt. 14-10-2005 directed me to place*

the tender of the 4th respondent before the Counsel for acceptance.

It is respectfully submitted that basing on the recommendations made by the 2nd respondent vide his letter dt. 14-10-2005 the matter was placed before the Counsel in the Meeting held on 27-10-2005. Under Section 43 of the A.P. Municipalities Act, 1965, the competent authority to finalize the tender is the Municipal Council. The Municipal Council unanimously resolved by its Resolution No. 57/05, dt. 27-10-2005 the tender notice dt. 29-7-2005 stands cancelled and decided to call for fresh tenders".

5. Heard learned counsel appearing for the petitioner, and Sri Polisetti Radhakrishna, learned standing counsel appearing for Respondents No.3.

6. Learned counsel for the petitioner submits that the the resolution passed by the Municipal Council, Vikarabad rejecting the petitioner's tender in spite of it being the lowest and going for the fresh tender is arbitrary and illegal.

7. Learned Standing counsel appearing for the 3rd respondent submits that the council has taken into account all the circumstances and decided to cancel the tender and to call for fresh tender and therefore, the action of the council cannot be found fault.

8. As seen from the records the 4th respondent has been prevented from filing the tender and therefore, he approached S.H.O. Vikarabad and presented tender and thereupon tender submitted by him came to be forwarded to the authorities concern.

9. It is well settled law that Courts would interfere with the administrative policy decision only if it is arbitrary, discriminatory, mala fide or actuated bias vide decision of the Supreme Court in ***Director of Education Vs. Educomp Datamatics Ltd***..

10. The Municipal Council, Vikarabad-3rd respondent has taken into account all the circumstances which made the petitioner to be a sole tenderer and decided to cancel the tender of the petitioner and call for fresh tender. The decision taken by the Municipal Council, Vikarabad-3rd respondent in the given circumstances cannot be termed as arbitrary.

11. In the result, I find that the writ petition is devoid of merits and it is accordingly dismissed. No order as to costs.

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B.Seshasayana Reddy,J

8th November, 2005.

C.C. in two days

B/o

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

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W.P.No. 23161 OF 2005

8th November, 2005